

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MICHAEL ALLEN ABERLE,

Petitioner,

v.

MAGGIE MILLER-STOUT,

Respondent.

CASE NO. C09-5753RJB

ORDER ADOPTING  
REPORT AND  
RECOMMENDATION

The Court having reviewed the Report and Recommendation of the United States Magistrate Judge J. Richard Creatura (Dkt. 13), objections to the Report and Recommendation (Dkt. 15) and the remaining record, does hereby find and Order:

- (1) Petitioner objects to the Report and Recommendation, arguing that the sentence he received was unfair because may have to serve 120 months, including his sentence and community custody, and therefore he will not get credit for the good time credits he has earned. Dkt. 15, at 2. Petitioner was sentenced within the statutory maximum. Petitioner has not shown that he is entitled, at sentencing, to a breakdown of how much of his sentence he will serve in prison and how much will be served in community custody. The Court **ADOPTS** the Report and Recommendation (Dkt. 13).
- (2) The petition for writ of habeas corpus is **DENIED**.
- (3) In accordance with Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts, a certificate of appealability is **DENIED** with respect to all claims asserted by petitioner in his habeas petition.

1 (4) The clerk is directed to send copies of this Order to Petitioner, and the  
2 Hon. J. Richard Creatura.

3 DATED this 31st day of March, 2010.

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6 ROBERT J. BRYAN  
7 United States District Judge  
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